IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRD DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 23953 of 2004

Between:

R. Muthyam Reddy, S/o Ramakrishna Reddy,

Aged about 45 years, Occ: M.P.T.C. Ratnapur &

Vice President of M.P.P. Shivampet,

R/o Kothapet village, Shivampet Mandal, Medak District.

..... PETITIONER

AND

1. The Government of Andhra Pradesh,

   Represented by its Principal Secretary,

   Panchayat Raj & Rural Development,

   Secretariat, Hyderabad.

2. The Chief Executive Officer,

   Zilla Parishad Medak, Sangareddy.

3. Donti Chandra Goud,

   S/o Narsa Goud, R/o Gomaram village,

   Shivampet Mandal, Medak District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondents 1 and 2 in not issuing notification removing the third respondent from the office of President Mandal Parishad, Shivampet Medak District and consequently not taking steps to fill up the post of President expeditiously as arbitrary, wholly unjust, unconstitutional and bad in law.

Counsel for the petitioner: Mr. Chilumala Pratap Reddy.

Counsel for the Respondent No.1: GP for Panchayat Raj.

Counsel for the Respondent No.2: Smt. Jyothi Eswar Gogineni.

Counsel for the Respondent No.3: ---

This Court at the admission stage made the following:

O R D E R:

The petitioner claims to be the Vice President of Shivampet Mandal Parishad, Medak District.

It is stated that the petitioner along with six other members of MPTC moved a motion of No Confidence under Section 245 (1) of the Andhra Pradesh Panchayat Raj Act, 1994 (hereinafter referred to as 'the Act') against the third respondent. Accordingly a special meeting was held on 16-09-2004 and the Motion of No Confidence was carried against the 3rd respondent. It appears that aggrieved by the same, the third respondent filed W.P.No.16311 of 2004. During the pendency of the said writ petition, result of the No-Confidence Motion was not announced. However, the said writ petition was dismissed by this Court on 09-11-2004.

The grievance of the petitioner is that in spite of the fact that the order of this Court in W.P.No.16311 of 2004 was communicated, the respondents 1 and 2 failed to take any steps as required under sub-section (2) of Section 245 of the Act for removal of the third respondent.

It is to be noted that as per sub-section (2) of Section 245 of the Act, if

the motion is carried with the support of two thirds of the total number of members in the case of a Upa-Sarpanch, the Commissioner shall and in the case of the President or Vice-President or the Chairperson or Vice-Chairperson, the Government shall by notification remove him from office and the resulting vacancy shall be filled in the same manner as a casual vacancy. It is further relevant to note that Rules 10 and 11 of the Rules relating to Motion of No-Confidence in Upa-Sarpanch of Gram Panchayat or Vice-President/President of Mandal Parishad or Vice-Chairman/Chairman of Zilla Parishad (hereinafter referred to as 'the Rules') made under G.O.Ms.No.200, Panchayat Raj & Rural Development (Mandal-1), dated 28-04-1998 also contain similar provision.

It is also relevant to note that the Revenue Divisional Officer by letter dated 03-12-2004 informed the Chief Executive Officer, Zilla Parishad that since W.P.No.16311 of 2004 was dismissed by this Court, he may proceed with further steps to implement the resolution passed in No-Confidence Motion.

In the light of the above said statutory provisions and since the Revenue Divisional Officer has already directed the Chief Executive Officer of the Zilla Parishad to proceed with the necessary further steps, I am of the view that the respondents 1 and 2 are bound to take the necessary steps expeditiously. As a matter of fact, the learned Government Pleader for Panchayat Raj, under instructions, states that the process has already been commenced for removal of the third respondent.

In the facts and circumstances of the case, the writ petition is disposed of with a direction to the respondents 1 and 2 to take the necessary further steps, in pursuance of the No Confidence Motion passed against the third respondent, in terms of sub-section 2 of Section 245 of the Act read with Rules 10 and 11 of the Rules and to complete the process expeditiously. No costs.

(G. ROHINI, J)

Date: 03-03-2005

ghn

To

1. The Government of Andhra Pradesh,

   Represented by its Principal Secretary,

   Panchayat Raj & Rural Development,

   Secretariat, Hyderabad.

2. The Chief Executive Officer,

   Zilla Parishad Medak, Sangareddy.

3. Donti Chandra Goud,

   S/o Narsa Goud, R/o Gomaram village,

   Shivampet Mandal, Medak District.

4. Two CCs to the Government Pleader for Panchayat Raj, High Court of A.P., Hyderabad. (O.U.T.)

5. Two CD copies.